IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

TRILOGY REHAB SERVICES, LLC,	
Plaintiff,))
v.) Case No. 3:10-0396) Judge Trauger
CONSULTAMERICA EAST HAVEN, INC. d/b/a,)
CONSULTAMERICA HEALTH)
AND REHABILITATION, et al.,)
Defendants.)))

ORDER

Pending before the court is the plaintiff's Motion for Summary Judgment (Docket No. 34), to which the defendants have responded (Docket No. 39). The parties' briefing reveals that this motion is a partial motion for summary judgment, by which the plaintiff seeks a judgment that the defendants breached the relevant contractual agreements. Indeed, by the plaintiff's own admission, such a judgment would leave for trial the heavily disputed issues of damages and whether the corporate veil should be pierced. (*See* Docket No. 34 Ex. 1 at 14.)

The initial case management Order prohibits such partial motions for summary judgment without leave of court, which was not sought here. (*See* Docket No. 18 at 4.) Moreover, even a cursory review of the parties' briefing and the virtually non-existent evidentiary support for the factual assertions made therein demonstrates that there are genuinely disputed issues of material fact on the key liability issues raised by the plaintiff, that is, which party breached the contracts first and whether the defendants "poached" the plaintiff's employees. Therefore, not only is this motion procedurally improper, it is facially without merit. The plaintiff's [Partial] Motion for

Summary Judgment (Docket No. 34) is **DENIED.** Consistent with the court's previous scheduling order (Docket No. 28), this case will be set for a one-day bench trial by separate order.

It is so ordered

Enter this 21st day of June 2011.

ALETA A. TRAUGER

United States District Judge